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6 **UNITED STATES DISTRICT COURT**  
7 **NORTHERN DISTRICT OF CALIFORNIA**  
8 **SAN JOSE DIVISION**  
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10 SHELTON HICKERSON, et al.,

11 Plaintiffs,

12 v.

13 BOARD OF VETERANS APPEALS, et al.,

14 Defendants.

Case No. 16-cv-04388-BLF

**ORDER DISMISSING CASE**

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16 When the complaint was filed in this action, Plaintiff did not pay the filing fee but instead  
17 submitted an application to proceed in forma pauperis. The Court denied Plaintiff's application to  
18 proceed in forma pauperis as incomplete and granted Plaintiff two weeks, until September 6, 2016,  
19 to file a renewed application. Plaintiff did not file a renewed application within the time provided.

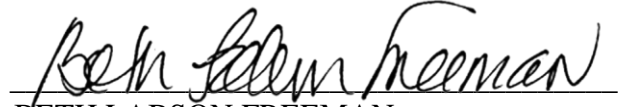
20 On September 12, 2016, the Court – still having not received a renewed application to  
21 proceed in forma pauperis – issued an order setting a deadline of October 12, 2016 for payment of  
22 the filing fee. The order informed Plaintiff that failure to pay the filing fee by that date would  
23 result in dismissal of the case without prejudice under Federal Rule of Civil Procedure 41(b). *See*  
24 Order Setting Deadline for Payment of Filing Fee at 1, ECF 14. Plaintiff did not pay the filing fee  
25 within the time provided and still has not paid it.

26 Accordingly, this action is **DISMISSED WITHOUT PREJUDICE**. *See* Fed. R. Civ. P.  
27 41(b); *Anthony v. United States Dep't of the Interior*, No. 11-35030, 2012 WL 907491, at \*1 (9th  
28 Cir. March 19, 2012) (affirming dismissal without prejudice under Rule 41(b) where plaintiff

1 failed to submit application to proceed in forma paupers or pay the filing fee).

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3 **IT IS SO ORDERED.**

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5 Dated: October 18, 2016

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7 BETH LABSON FREEMAN  
8 United States District Judge  
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